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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,334	05/09/2005	Johann Beller	BELL3002FJD	2008

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EXAMINER

GOINS, DAVETTA WOODS

ART UNIT	PAPER NUMBER
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2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/509,334

Applicant(s)

BELLER, JOHANN

Examiner

Davetta W. Goins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchelima (US Pat. 5,901,740).

In reference to claims 16-18, 21, 30, 31, 33, 34, 43, Sanchelima discloses a) the claimed at least two measuring electrodes extending into the container, wherein a measurement current flowing between the two measuring electrodes is used for detecting when the predefined fill level is reached, which is met by level sensors 60, 62, 63 and 61 that provide a signal to a control unit 70 of the level of liquid that has been reached within compartment 20 (col. 2, lines 20-67), and b) the claimed compensation electrode, which is met by sensor 60 being a sensor that is monitored by control unit 70 as one that, when actuated by liquid within compartment 20, will operate valve 80 such that pump 90 will release the liquid inside compartment 20 until the level reaches a desired level, such as at sensor 61 (col. 3, lines 1-17). Although Sanchelima does not specifically disclose the claimed compensation electrode is located on the lid of the container, he does disclose a level sensor 60 located near the top of the liquid filled compartment 20, the sensor being one that is used to determine that valve 80 should be actuated to allow the liquid to be drained (col. 3, lines 1-17). Since Sanchelima discloses a container with different electrode

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sensors used to detect different levels of liquid prior to operating the drain, it would have been obvious to one of ordinary skill in the art at the time of the invention to place the compensation electrode at any location within the container, such as the lid, as a means for the user determining the exact location of in which the full level should be monitored.

In reference to claims 19, 32, Sanchelima discloses the claimed two measuring electrodes are cylindrical or columnar, which is met by electrodes 60, 61, 62 and 63 (Figure 1).

In reference to claim 20, Sanchelima discloses the claimed the compensation electrode is constructed and arranged such that it is not contacted by the medium upon the reaching of the predefined fill level, which is met by sensors 63, 62 and 61 all being placed lower than sensor 60 (full line sensor) (Figure 1).

In reference to claims 22, 35, Sanchelima discloses the claimed compensation electrode is arranged symmetrically between the two measuring electrodes, which is met by electrodes 60, 61, 62 and 63 (Figure 1).

In reference to claims 23-28, 36-40, Sanchelima discloses the claimed first current measuring unit, which provides information concerning the reaching of the predefined fill level on the basis of the measurement current flowing between the two measuring electrodes, which is met by the control unit 70, including a microprocessor, programmed to determine the level reached by each sensor that detects liquid (col. 3, lines 1-17).

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In reference to claims 29, 42, Sanchelima does not specifically disclose the claimed container is a metering container for a sampler. However, the compartment 20 could be used to hold any liquid in which the device will monitor the level of liquid (col. 2, lines 20-37). Since Sanchelima discloses a compartment to hold liquid and determine different levels of the liquid, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the container as a meter for a sampler, as a choice for the user that will give an indication as well as drain any unwanted liquid.

In reference to claim 41, Sanchelima discloses the claimed second evaluating unit or the flow control sets an alarm signal, as soon as the degree of fouling on the lid of the container exceeds a predetermined, tolerable degree of fouling, which is met by alarm 75 that is actuated to display to the user that a predetermined level has been reached (col. 3, lines 1-17).

3. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Loniello (US Pat. 4,879,902), Koenig et al. (US Pat. 5,923,102), Gilbert et al. (US Pat. 6,095,178), Fuller (US Pat. 4,182,363) and Schepka (US Pat. 5,898,374), which disclose liquid level detecting systems.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Davetta W. Goins
Primary Examiner
Art Unit 2612



D.W.G.

January 7, 2007